



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Color Dynamics, Inc.

File: B-236033.2

Date: October 27, 1989

DIGEST

Cancellation of an invitation for bids (IFB) after bid opening is proper where agency decides not to provide funding for the work to be performed under the IFB based on its view that lower bids may be received and the work thus will be performed at a lower cost to the government if the current IFB is canceled and the requirement is resolicited in the next fiscal year.

DECISION

Color Dynamics, Inc., protests the Air Force's cancellation of invitation for bids (IFB) No. F64605-89-B-0001, for exterior painting of military family housing at Hickam Air Force Base, Hawaii. Contending that the post-bid opening cancellation was improper, Color Dynamics seeks reinstatement of the solicitation and reimbursement of its bid preparation and protest costs.

We deny the protest.

The IFB was issued on November 18, 1988. After the February 13, 1989 bid opening, the Air Force twice requested bidders to extend their bid acceptance periods. The two low bidders ultimately were rejected as nonresponsive for revising their bid prices in connection with their bid acceptance period extensions. Subsequently, Color Dynamics, the third low bidder, was notified on June 22 that the Air Force had canceled the IFB due to the unavailability of fiscal year (FY) 1989 funding for the project and that the Air Force anticipated that the project would be resolicited in FY 1990. Color Dynamics then protested the cancellation of the IFB to our Office.

Although the procurement was conducted by the Air Force, funding for the project was to be provided by the Army, which is responsible for funding military family housing maintenance repair projects on Oahu, Hawaii, where the base

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is located. The record shows that the Army ultimately determined that it would not be in the government's best interest to provide funding for the contract because while the bid submitted by Color Dynamics (\$676,000), the bidder in line for award, was below the government estimate (\$761,500), it also was significantly higher than the bids of the two lower bidders (\$475,000 and \$492,800).^{1/} After the contracting officer was advised that funding for the contract would not be provided, he canceled the IFB and advised the bidders that the requirement would be resolicited in fiscal year 1990.

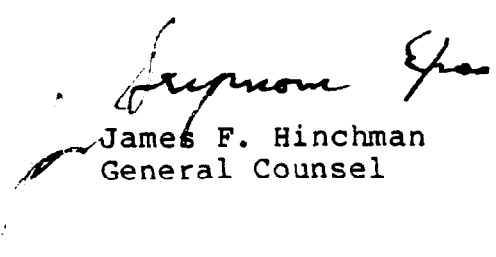
Cancellation of a solicitation after bids have been opened and prices have been exposed requires a cogent and compelling reason. Federal Acquisition Regulation (FAR) § 14.401-1(a)(1); Washington Patrol Service, Inc., B-225610, et al., Apr. 7, 1987, 87-1 CPD ¶ 384. Specifically, FAR § 14.404-1(c)(6) authorizes cancellation of an IFB after bid opening where the bids received are at unreasonable prices.

Here, the record shows that the Army's rationale for its decision not to fund the contract was its view that bids lower than the protester's might be received if the current IFB were canceled and the requirement resolicited in the following fiscal year. The Army in effect decided that it was in the government's best interest to cancel the current IFB and recompute the following year in the hope of receiving lower bid prices and thus accomplishing the work needed at a lower cost to the government. Implicit in the Army's decision was its determination that Color Dynamics' bid--which was approximately 35 percent higher than the two original lower bids and remained significantly higher than the second low bidder's revised price--was unreasonably

^{1/} As noted above, the two low bids were rejected because the bidders attempted to change their prices when they were asked to extend their bid acceptance periods. The record shows that the low bidder proposed a modest increase in its price; the second low bidder increased its price more substantially, but remained appreciably lower than the protester's bid. In addition, a preaward survey conducted on the low bidder recommended that no award be made to that bidder.

high. Given that FAR § 14.404-1(c)(6) specifically authorizes cancellation under such circumstances, we cannot conclude that the decision to cancel the IFB was improper. See The W.H. Smith Hardware Co., B-221792, May 9, 1986, 86-1 CPD ¶ 446.

The protest is denied.



James F. Hinchman
General Counsel